

1 AN ACT in relation to budget implementation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the FY2005
5 Budget Implementation (Human Services) Act.

6 Section 5. Purpose. It is the purpose of this Act to make
7 changes in State programs that are necessary to implement the
8 Governor's FY2005 budget recommendations concerning human
9 services.

10 Section 7. The Illinois Administrative Procedure Act is
11 amended by changing Section 5-45 as follows:

12 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

13 Sec. 5-45. Emergency rulemaking.

14 (a) "Emergency" means the existence of any situation that
15 any agency finds reasonably constitutes a threat to the public
16 interest, safety, or welfare.

17 (b) If any agency finds that an emergency exists that
18 requires adoption of a rule upon fewer days than is required by
19 Section 5-40 and states in writing its reasons for that
20 finding, the agency may adopt an emergency rule without prior
21 notice or hearing upon filing a notice of emergency rulemaking
22 with the Secretary of State under Section 5-70. The notice
23 shall include the text of the emergency rule and shall be
24 published in the Illinois Register. Consent orders or other
25 court orders adopting settlements negotiated by an agency may
26 be adopted under this Section. Subject to applicable
27 constitutional or statutory provisions, an emergency rule
28 becomes effective immediately upon filing under Section 5-65 or
29 at a stated date less than 10 days thereafter. The agency's
30 finding and a statement of the specific reasons for the finding

1 shall be filed with the rule. The agency shall take reasonable
2 and appropriate measures to make emergency rules known to the
3 persons who may be affected by them.

4 (c) An emergency rule may be effective for a period of not
5 longer than 150 days, but the agency's authority to adopt an
6 identical rule under Section 5-40 is not precluded. No
7 emergency rule may be adopted more than once in any 24 month
8 period, except that this limitation on the number of emergency
9 rules that may be adopted in a 24 month period does not apply
10 to (i) emergency rules that make additions to and deletions
11 from the Drug Manual under Section 5-5.16 of the Illinois
12 Public Aid Code or the generic drug formulary under Section
13 3.14 of the Illinois Food, Drug and Cosmetic Act or (ii)
14 emergency rules adopted by the Pollution Control Board before
15 July 1, 1997 to implement portions of the Livestock Management
16 Facilities Act. Two or more emergency rules having
17 substantially the same purpose and effect shall be deemed to be
18 a single rule for purposes of this Section.

19 (d) In order to provide for the expeditious and timely
20 implementation of the State's fiscal year 1999 budget,
21 emergency rules to implement any provision of Public Act 90-587
22 or 90-588 or any other budget initiative for fiscal year 1999
23 may be adopted in accordance with this Section by the agency
24 charged with administering that provision or initiative,
25 except that the 24-month limitation on the adoption of
26 emergency rules and the provisions of Sections 5-115 and 5-125
27 do not apply to rules adopted under this subsection (d). The
28 adoption of emergency rules authorized by this subsection (d)
29 shall be deemed to be necessary for the public interest,
30 safety, and welfare.

31 (e) In order to provide for the expeditious and timely
32 implementation of the State's fiscal year 2000 budget,
33 emergency rules to implement any provision of this amendatory
34 Act of the 91st General Assembly or any other budget initiative
35 for fiscal year 2000 may be adopted in accordance with this
36 Section by the agency charged with administering that provision

1 or initiative, except that the 24-month limitation on the
2 adoption of emergency rules and the provisions of Sections
3 5-115 and 5-125 do not apply to rules adopted under this
4 subsection (e). The adoption of emergency rules authorized by
5 this subsection (e) shall be deemed to be necessary for the
6 public interest, safety, and welfare.

7 (f) In order to provide for the expeditious and timely
8 implementation of the State's fiscal year 2001 budget,
9 emergency rules to implement any provision of this amendatory
10 Act of the 91st General Assembly or any other budget initiative
11 for fiscal year 2001 may be adopted in accordance with this
12 Section by the agency charged with administering that provision
13 or initiative, except that the 24-month limitation on the
14 adoption of emergency rules and the provisions of Sections
15 5-115 and 5-125 do not apply to rules adopted under this
16 subsection (f). The adoption of emergency rules authorized by
17 this subsection (f) shall be deemed to be necessary for the
18 public interest, safety, and welfare.

19 (g) In order to provide for the expeditious and timely
20 implementation of the State's fiscal year 2002 budget,
21 emergency rules to implement any provision of this amendatory
22 Act of the 92nd General Assembly or any other budget initiative
23 for fiscal year 2002 may be adopted in accordance with this
24 Section by the agency charged with administering that provision
25 or initiative, except that the 24-month limitation on the
26 adoption of emergency rules and the provisions of Sections
27 5-115 and 5-125 do not apply to rules adopted under this
28 subsection (g). The adoption of emergency rules authorized by
29 this subsection (g) shall be deemed to be necessary for the
30 public interest, safety, and welfare.

31 (h) In order to provide for the expeditious and timely
32 implementation of the State's fiscal year 2003 budget,
33 emergency rules to implement any provision of this amendatory
34 Act of the 92nd General Assembly or any other budget initiative
35 for fiscal year 2003 may be adopted in accordance with this
36 Section by the agency charged with administering that provision

1 or initiative, except that the 24-month limitation on the
2 adoption of emergency rules and the provisions of Sections
3 5-115 and 5-125 do not apply to rules adopted under this
4 subsection (h). The adoption of emergency rules authorized by
5 this subsection (h) shall be deemed to be necessary for the
6 public interest, safety, and welfare.

7 (i) In order to provide for the expeditious and timely
8 implementation of the State's fiscal year 2004 budget,
9 emergency rules to implement any provision of this amendatory
10 Act of the 93rd General Assembly or any other budget initiative
11 for fiscal year 2004 may be adopted in accordance with this
12 Section by the agency charged with administering that provision
13 or initiative, except that the 24-month limitation on the
14 adoption of emergency rules and the provisions of Sections
15 5-115 and 5-125 do not apply to rules adopted under this
16 subsection (i). The adoption of emergency rules authorized by
17 this subsection (i) shall be deemed to be necessary for the
18 public interest, safety, and welfare.

19 (j) In order to provide for the expeditious and timely
20 implementation of the provisions of the State's fiscal year
21 2005 budget as provided under the Fiscal Year 2005 Budget
22 Implementation (Human Services) Act, emergency rules to
23 implement any provision of the Fiscal Year 2005 Budget
24 Implementation (Human Services) Act may be adopted in
25 accordance with this Section by the agency charged with
26 administering that provision, except that the 24-month
27 limitation on the adoption of emergency rules and the
28 provisions of Sections 5-115 and 5-125 do not apply to rules
29 adopted under this subsection (j). The Department of Public Aid
30 may also adopt rules under this subsection (j) necessary to
31 administer the Illinois Public Aid Code and the Children's
32 Health Insurance Program Act. The adoption of emergency rules
33 authorized by this subsection (j) shall be deemed to be
34 necessary for the public interest, safety, and welfare.

35 (Source: P.A. 92-10, eff. 6-11-01; 92-597, eff. 6-28-02; 93-20,
36 eff. 6-20-03.)

1 Section 10. The Mental Health and Developmental
2 Disabilities Administrative Act is amended by changing Section
3 18.4 and adding Section 18.5 as follows:

4 (20 ILCS 1705/18.4)

5 Sec. 18.4. Community Mental Health Medicaid Trust Fund;
6 reimbursement.

7 (a) The Community Mental Health Medicaid Trust Fund is
8 hereby created in the State Treasury.

9 (b) Except as otherwise provided in this Section, any ~~Any~~
10 funds paid to the State by the federal government under Title
11 XIX or Title XXI of the Social Security Act for services
12 delivered by community mental health services providers, and
13 any interest earned thereon, shall be deposited directly into
14 the Community Mental Health Medicaid Trust Fund. Beginning with
15 State fiscal year 2005, the first \$95,000,000 received by the
16 Department shall be deposited 26.3% into the General Revenue
17 Fund and 73.7% into the Community Mental Health Medicaid Trust
18 Fund. Amounts received in excess of \$95,000,000 in any State
19 fiscal year shall be deposited 50% into the General Revenue
20 Fund and 50% into the Community Mental Health Medicaid Trust
21 Fund. The Department shall analyze the budgeting and
22 programmatic impact of this funding allocation and report to
23 the Governor and the General Assembly the results of this
24 analysis and any recommendations for change, no later than
25 December 31, 2005.

26 (c) The Department shall reimburse community mental health
27 services providers for Medicaid-reimbursed mental health
28 services provided to eligible individuals. Moneys in the
29 Community Mental Health Medicaid Trust Fund may be used for
30 that purpose.

31 (d) As used in this Section:

32 "Medicaid-reimbursed mental health services" means
33 services provided by a community mental health provider under
34 an agreement with the Department that is eligible for

1 reimbursement under the federal Title XIX program or Title XXI
2 program.

3 "Provider" means a community agency that is funded by the
4 Department to provide a Medicaid-reimbursed service.

5 "Services" means mental health services provided under one
6 of the following programs:

- 7 (1) Medicaid Clinic Option;
- 8 (2) Medicaid Rehabilitation Option;
- 9 (3) Targeted Case Management.

10 (Source: P.A. 92-597, eff. 6-28-02.)

11 (20 ILCS 1705/18.5 new)

12 Sec. 18.5. Community Developmental Disability Services
13 Medicaid Trust Fund; reimbursement.

14 (a) The Community Developmental Disability Services
15 Medicaid Trust Fund is hereby created in the State treasury.

16 (b) Any funds in excess of \$16,700,000 in any fiscal year
17 paid to the State by the federal government under Title XIX or
18 Title XXI of the Social Security Act for services delivered by
19 community developmental disability services providers for
20 services relating to Developmental Training and Community
21 Integrated Living Arrangements as a result of the conversion of
22 such providers from a grant payment methodology to a
23 fee-for-service payment methodology, or any other funds paid to
24 the State for any subsequent revenue maximization initiatives
25 performed by such providers, and any interest earned thereon,
26 shall be deposited directly into the Community Developmental
27 Disability Services Medicaid Trust Fund. One-third of this
28 amount shall be used only to pay for Medicaid-reimbursed
29 community developmental disability services provided to
30 eligible individuals, and the remainder shall be transferred to
31 the General Revenue Fund.

32 (c) For purposes of this Section:

33 "Medicaid-reimbursed developmental disability services"
34 means services provided by a community developmental
35 disability provider under an agreement with the Department that

1 is eligible for reimbursement under the federal Title XIX
2 program or Title XXI program.

3 "Provider" means a qualified entity as defined in the
4 State's Home and Community-Based Services Waiver for Persons
5 with Developmental Disabilities that is funded by the
6 Department to provide a Medicaid-reimbursed service.

7 "Revenue maximization alternatives" do not include
8 increases in funds paid to the State as a result of growth in
9 spending through service expansion or rate increases.

10 Section 20. The State Finance Act is amended by changing
11 Sections 6z-58 and 25 and by adding Section 8.55 as follows:

12 (30 ILCS 105/6z-58)

13 Sec. 6z-58. The Family Care Fund.

14 (a) There is created in the State treasury the Family Care
15 Fund. Interest earned by the Fund shall be credited to the
16 Fund.

17 (b) The Fund is created ~~solely~~ for the purposes of
18 receiving, investing, and distributing moneys in accordance
19 with (i) an approved waiver under the Social Security Act
20 resulting from the Family Care waiver request submitted by the
21 Illinois Department of Public Aid on February 15, 2002 and (ii)
22 an interagency agreement between the Department of Public Aid
23 and another agency of State government. The Fund shall consist
24 of:

25 (1) All federal financial participation moneys
26 received pursuant to the approved waiver, except for moneys
27 received pursuant to expenditures for medical services by
28 the Department of Public Aid from any other fund; and

29 (2) All other moneys received by the Fund from any
30 source, including interest thereon.

31 (c) Subject to appropriation, the moneys in the Fund shall
32 be disbursed for reimbursement of medical services and other
33 costs associated with persons receiving such services:

34 (1) under programs administered by the Department of

1 Public Aid; and
2 (2) pursuant to an interagency agreement, under
3 programs administered by another agency of State
4 government. ~~under the waiver due to their relationship with~~
5 ~~children receiving medical services pursuant to Article V~~
6 ~~of the Illinois Public Aid Code or the Children's Health~~
7 ~~Insurance Program Act.~~

8 (Source: P.A. 92-600, eff. 6-28-02; 93-20, eff. 6-20-03.)

9 (30 ILCS 105/8.55 new)

10 Sec. 8.55. Interfund transfers. On or after July 1, 2004
11 and until June 30, 2006, in addition to any other transfers
12 that may be provided for by law, at the direction of and upon
13 notification from the Director of Public Aid, the State
14 Comptroller shall direct and the State Treasurer shall transfer
15 amounts into the General Revenue Fund from the designated funds
16 not exceeding the following totals:

17 Hospital Provider Fund \$36,000,000
18 Health and Human Services Medicaid Trust Fund \$124,000,000.

19 Transfers of moneys under this Section may not exceed a
20 total of \$80,000,000 in any State fiscal year.

21 (30 ILCS 105/25) (from Ch. 127, par. 161)

22 Sec. 25. Fiscal year limitations.

23 (a) All appropriations shall be available for expenditure
24 for the fiscal year or for a lesser period if the Act making
25 that appropriation so specifies. A deficiency or emergency
26 appropriation shall be available for expenditure only through
27 June 30 of the year when the Act making that appropriation is
28 enacted unless that Act otherwise provides.

29 (b) Outstanding liabilities as of June 30, payable from
30 appropriations which have otherwise expired, may be paid out of
31 the expiring appropriations during the 2-month period ending at
32 the close of business on August 31. Any service involving
33 professional or artistic skills or any personal services by an
34 employee whose compensation is subject to income tax

1 withholding must be performed as of June 30 of the fiscal year
2 in order to be considered an "outstanding liability as of June
3 30" that is thereby eligible for payment out of the expiring
4 appropriation.

5 However, payment of tuition reimbursement claims under
6 Section 14-7.03 or 18-3 of the School Code may be made by the
7 State Board of Education from its appropriations for those
8 respective purposes for any fiscal year, even though the claims
9 reimbursed by the payment may be claims attributable to a prior
10 fiscal year, and payments may be made at the direction of the
11 State Superintendent of Education from the fund from which the
12 appropriation is made without regard to any fiscal year
13 limitations.

14 Medical payments may be made by the Department of Veterans'
15 Affairs from its appropriations for those purposes for any
16 fiscal year, without regard to the fact that the medical
17 services being compensated for by such payment may have been
18 rendered in a prior fiscal year.

19 Medical payments may be made by the Department of Public
20 Aid and medical payments and child care payments may be made by
21 the Department of Human Services (as successor to the
22 Department of Public Aid) from appropriations for those
23 purposes for any fiscal year, without regard to the fact that
24 the medical or child care services being compensated for by
25 such payment may have been rendered in a prior fiscal year; and
26 payments may be made at the direction of the Department of
27 Central Management Services from the Health Insurance Reserve
28 Fund and the Local Government Health Insurance Reserve Fund
29 without regard to any fiscal year limitations.

30 Medical payments may be made by the Department of Human
31 Services from its appropriations relating to substance abuse
32 treatment services for any fiscal year, without regard to the
33 fact that the medical services being compensated for by such
34 payment may have been rendered in a prior fiscal year, provided
35 the payments are made on a fee-for-service basis consistent
36 with requirements established for Medicaid reimbursement by

1 the Department of Public Aid.

2 Additionally, payments may be made by the Department of
3 Human Services from its appropriations, or any other State
4 agency from its appropriations with the approval of the
5 Department of Human Services, from the Immigration Reform and
6 Control Fund for purposes authorized pursuant to the
7 Immigration Reform and Control Act of 1986, without regard to
8 any fiscal year limitations.

9 Further, with respect to costs incurred in fiscal years
10 2002 and 2003 only, payments may be made by the State Treasurer
11 from its appropriations from the Capital Litigation Trust Fund
12 without regard to any fiscal year limitations.

13 Lease payments may be made by the Department of Central
14 Management Services under the sale and leaseback provisions of
15 Section 7.4 of the State Property Control Act with respect to
16 the James R. Thompson Center and the Elgin Mental Health Center
17 and surrounding land from appropriations for that purpose
18 without regard to any fiscal year limitations.

19 Lease payments may be made under the sale and leaseback
20 provisions of Section 7.5 of the State Property Control Act
21 with respect to the Illinois State Toll Highway Authority
22 headquarters building and surrounding land without regard to
23 any fiscal year limitations.

24 (c) Further, payments may be made by the Department of
25 Public Health and the Department of Human Services (acting as
26 successor to the Department of Public Health under the
27 Department of Human Services Act) from their respective
28 appropriations for grants for medical care to or on behalf of
29 persons suffering from chronic renal disease, persons
30 suffering from hemophilia, rape victims, and premature and
31 high-mortality risk infants and their mothers and for grants
32 for supplemental food supplies provided under the United States
33 Department of Agriculture Women, Infants and Children
34 Nutrition Program, for any fiscal year without regard to the
35 fact that the services being compensated for by such payment
36 may have been rendered in a prior fiscal year.

1 (d) The Department of Public Health and the Department of
2 Human Services (acting as successor to the Department of Public
3 Health under the Department of Human Services Act) shall each
4 annually submit to the State Comptroller, Senate President,
5 Senate Minority Leader, Speaker of the House, House Minority
6 Leader, and the respective Chairmen and Minority Spokesmen of
7 the Appropriations Committees of the Senate and the House, on
8 or before December 31, a report of fiscal year funds used to
9 pay for services provided in any prior fiscal year. This report
10 shall document by program or service category those
11 expenditures from the most recently completed fiscal year used
12 to pay for services provided in prior fiscal years.

13 (e) The Department of Public Aid, ~~and~~ the Department of
14 Human Services (acting as successor to the Department of Public
15 Aid), and the Department of Human Services making
16 fee-for-service payments relating to substance abuse treatment
17 services provided during a previous fiscal year shall each
18 annually submit to the State Comptroller, Senate President,
19 Senate Minority Leader, Speaker of the House, House Minority
20 Leader, the respective Chairmen and Minority Spokesmen of the
21 Appropriations Committees of the Senate and the House, on or
22 before November 30, a report that shall document by program or
23 service category those expenditures from the most recently
24 completed fiscal year used to pay for (i) services provided in
25 prior fiscal years and (ii) services for which claims were
26 received in prior fiscal years.

27 (f) The Department of Human Services (as successor to the
28 Department of Public Aid) shall annually submit to the State
29 Comptroller, Senate President, Senate Minority Leader, Speaker
30 of the House, House Minority Leader, and the respective
31 Chairmen and Minority Spokesmen of the Appropriations
32 Committees of the Senate and the House, on or before December
33 31, a report of fiscal year funds used to pay for services
34 (other than medical care) provided in any prior fiscal year.
35 This report shall document by program or service category those
36 expenditures from the most recently completed fiscal year used

1 to pay for services provided in prior fiscal years.

2 (g) In addition, each annual report required to be
3 submitted by the Department of Public Aid under subsection (e)
4 shall include the following information with respect to the
5 State's Medicaid program:

6 (1) Explanations of the exact causes of the variance
7 between the previous year's estimated and actual
8 liabilities.

9 (2) Factors affecting the Department of Public Aid's
10 liabilities, including but not limited to numbers of aid
11 recipients, levels of medical service utilization by aid
12 recipients, and inflation in the cost of medical services.

13 (3) The results of the Department's efforts to combat
14 fraud and abuse.

15 (h) As provided in Section 4 of the General Assembly
16 Compensation Act, any utility bill for service provided to a
17 General Assembly member's district office for a period
18 including portions of 2 consecutive fiscal years may be paid
19 from funds appropriated for such expenditure in either fiscal
20 year.

21 (i) An agency which administers a fund classified by the
22 Comptroller as an internal service fund may issue rules for:

23 (1) billing user agencies in advance based on estimated
24 charges for goods or services;

25 (2) issuing credits during the subsequent fiscal year
26 for all user agency payments received during the prior
27 fiscal year which were in excess of the final amounts owed
28 by the user agency for that period; and

29 (3) issuing catch-up billings to user agencies during
30 the subsequent fiscal year for amounts remaining due when
31 payments received from the user agency during the prior
32 fiscal year were less than the total amount owed for that
33 period.

34 User agencies are authorized to reimburse internal service
35 funds for catch-up billings by vouchers drawn against their
36 respective appropriations for the fiscal year in which the

1 catch-up billing was issued.

2 (Source: P.A. 92-885, eff. 1-13-03; 93-19, eff. 6-20-03.)

3 Section 22. The Illinois Income Tax Act is amended by
4 changing Section 917 as follows:

5 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

6 Sec. 917. Confidentiality and information sharing.

7 (a) Confidentiality. Except as provided in this Section,
8 all information received by the Department from returns filed
9 under this Act, or from any investigation conducted under the
10 provisions of this Act, shall be confidential, except for
11 official purposes within the Department or pursuant to official
12 procedures for collection of any State tax or pursuant to an
13 investigation or audit by the Illinois State Scholarship
14 Commission of a delinquent student loan or monetary award or
15 enforcement of any civil or criminal penalty or sanction
16 imposed by this Act or by another statute imposing a State tax,
17 and any person who divulges any such information in any manner,
18 except for such purposes and pursuant to order of the Director
19 or in accordance with a proper judicial order, shall be guilty
20 of a Class A misdemeanor. However, the provisions of this
21 paragraph are not applicable to information furnished to a
22 licensed attorney representing the taxpayer where an appeal or
23 a protest has been filed on behalf of the taxpayer.

24 (b) Public information. Nothing contained in this Act shall
25 prevent the Director from publishing or making available to the
26 public the names and addresses of persons filing returns under
27 this Act, or from publishing or making available reasonable
28 statistics concerning the operation of the tax wherein the
29 contents of returns are grouped into aggregates in such a way
30 that the information contained in any individual return shall
31 not be disclosed.

32 (c) Governmental agencies. The Director may make available
33 to the Secretary of the Treasury of the United States or his
34 delegate, or the proper officer or his delegate of any other

1 state imposing a tax upon or measured by income, for
2 exclusively official purposes, information received by the
3 Department in the administration of this Act, but such
4 permission shall be granted only if the United States or such
5 other state, as the case may be, grants the Department
6 substantially similar privileges. The Director may exchange
7 information with the Illinois Department of Public Aid and the
8 Department of Human Services (acting as successor to the
9 Department of Public Aid under the Department of Human Services
10 Act) for the purpose of verifying sources and amounts of income
11 and for other purposes directly connected with the
12 administration of this Act and the Illinois Public Aid Code.
13 The Director may exchange information with the Director of the
14 Department of Employment Security for the purpose of verifying
15 sources and amounts of income and for other purposes directly
16 connected with the administration of this Act and Acts
17 administered by the Department of Employment Security. The
18 Director may make available to the Illinois Industrial
19 Commission information regarding employers for the purpose of
20 verifying the insurance coverage required under the Workers'
21 Compensation Act and Workers' Occupational Diseases Act. The
22 Director may exchange information with the Illinois Department
23 on Aging for the purpose of verifying sources and amounts of
24 income for purposes directly related to confirming eligibility
25 for participation in the programs of benefits authorized by the
26 Senior Citizens and Disabled Persons Property Tax Relief and
27 Pharmaceutical Assistance Act.

28 The Director may make available to any State agency,
29 including the Illinois Supreme Court, which licenses persons to
30 engage in any occupation, information that a person licensed by
31 such agency has failed to file returns under this Act or pay
32 the tax, penalty and interest shown therein, or has failed to
33 pay any final assessment of tax, penalty or interest due under
34 this Act. The Director may make available to any State agency,
35 including the Illinois Supreme Court, information regarding
36 whether a bidder, contractor, or an affiliate of a bidder or

1 contractor has failed to file returns under this Act or pay the
2 tax, penalty, and interest shown therein, or has failed to pay
3 any final assessment of tax, penalty, or interest due under
4 this Act, for the limited purpose of enforcing bidder and
5 contractor certifications. For purposes of this Section, the
6 term "affiliate" means any entity that (1) directly,
7 indirectly, or constructively controls another entity, (2) is
8 directly, indirectly, or constructively controlled by another
9 entity, or (3) is subject to the control of a common entity.
10 For purposes of this subsection (a), an entity controls another
11 entity if it owns, directly or individually, more than 10% of
12 the voting securities of that entity. As used in this
13 subsection (a), the term "voting security" means a security
14 that (1) confers upon the holder the right to vote for the
15 election of members of the board of directors or similar
16 governing body of the business or (2) is convertible into, or
17 entitles the holder to receive upon its exercise, a security
18 that confers such a right to vote. A general partnership
19 interest is a voting security.

20 The Director may make available to any State agency,
21 including the Illinois Supreme Court, units of local
22 government, and school districts, information regarding
23 whether a bidder or contractor is an affiliate of a person who
24 is not collecting and remitting Illinois Use taxes, for the
25 limited purpose of enforcing bidder and contractor
26 certifications.

27 The Director may also make available to the Secretary of
28 State information that a corporation which has been issued a
29 certificate of incorporation by the Secretary of State has
30 failed to file returns under this Act or pay the tax, penalty
31 and interest shown therein, or has failed to pay any final
32 assessment of tax, penalty or interest due under this Act. An
33 assessment is final when all proceedings in court for review of
34 such assessment have terminated or the time for the taking
35 thereof has expired without such proceedings being instituted.
36 For taxable years ending on or after December 31, 1987, the

1 Director may make available to the Director or principal
2 officer of any Department of the State of Illinois, information
3 that a person employed by such Department has failed to file
4 returns under this Act or pay the tax, penalty and interest
5 shown therein. For purposes of this paragraph, the word
6 "Department" shall have the same meaning as provided in Section
7 3 of the State Employees Group Insurance Act of 1971.

8 (d) The Director shall make available for public inspection
9 in the Department's principal office and for publication, at
10 cost, administrative decisions issued on or after January 1,
11 1995. These decisions are to be made available in a manner so
12 that the following taxpayer information is not disclosed:

13 (1) The names, addresses, and identification numbers
14 of the taxpayer, related entities, and employees.

15 (2) At the sole discretion of the Director, trade
16 secrets or other confidential information identified as
17 such by the taxpayer, no later than 30 days after receipt
18 of an administrative decision, by such means as the
19 Department shall provide by rule.

20 The Director shall determine the appropriate extent of the
21 deletions allowed in paragraph (2). In the event the taxpayer
22 does not submit deletions, the Director shall make only the
23 deletions specified in paragraph (1).

24 The Director shall make available for public inspection and
25 publication an administrative decision within 180 days after
26 the issuance of the administrative decision. The term
27 "administrative decision" has the same meaning as defined in
28 Section 3-101 of Article III of the Code of Civil Procedure.
29 Costs collected under this Section shall be paid into the Tax
30 Compliance and Administration Fund.

31 (e) Nothing contained in this Act shall prevent the
32 Director from divulging information to any person pursuant to a
33 request or authorization made by the taxpayer, by an authorized
34 representative of the taxpayer, or, in the case of information
35 related to a joint return, by the spouse filing the joint
36 return with the taxpayer.

1 (Source: P.A. 93-25, eff. 6-20-03.)

2 Section 25. The Nursing Home Care Act is amended by
3 changing Section 3-103 as follows:

4 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

5 Sec. 3-103. The procedure for obtaining a valid license
6 shall be as follows:

7 (1) Application to operate a facility shall be made to the
8 Department on forms furnished by the Department.

9 (2) All license applications shall be accompanied with an
10 application fee. The fee for an annual license shall be \$995
11 ~~based on the licensed capacity of the facility and shall be~~
12 ~~determined as follows: 0-49 licensed beds, a flat fee of \$500;~~
13 ~~50-99 licensed beds, a flat fee of \$750; and for any facility~~
14 ~~with 100 or more licensed beds, a fee of \$1,000 plus \$10 per~~
15 ~~licensed bed. Facilities that pay a fee or assessment pursuant~~
16 ~~to Article V-C of the Illinois Public Aid Code shall be exempt~~
17 ~~from the license fee imposed under this item (2).~~ The fee for a
18 2-year license shall be double the fee for the annual license
19 set forth in the preceding sentence. The ~~first \$600,000 of such~~
20 fees collected ~~each fiscal year~~ shall be deposited with the
21 State Treasurer into the Long Term Care Monitor/Receiver Fund,
22 which has been created as a special fund in the State treasury.
23 ~~Any such fees in excess of \$600,000 collected in a fiscal year~~
24 ~~shall be deposited into the General Revenue Fund.~~ This special
25 fund is to be used by the Department for expenses related to
26 the appointment of monitors and receivers as contained in
27 Sections 3-501 through 3-517. At the end of each fiscal year,
28 any funds in excess of \$1,000,000 held in the Long Term Care
29 Monitor/Receiver Fund shall be deposited in the State's General
30 Revenue Fund. The application shall be under oath and the
31 submission of false or misleading information shall be a Class
32 A misdemeanor. The application shall contain the following
33 information:

34 (a) The name and address of the applicant if an

1 individual, and if a firm, partnership, or association, of
2 every member thereof, and in the case of a corporation, the
3 name and address thereof and of its officers and its
4 registered agent, and in the case of a unit of local
5 government, the name and address of its chief executive
6 officer;

7 (b) The name and location of the facility for which a
8 license is sought;

9 (c) The name of the person or persons under whose
10 management or supervision the facility will be conducted;

11 (d) The number and type of residents for which
12 maintenance, personal care, or nursing is to be provided;
13 and

14 (e) Such information relating to the number,
15 experience, and training of the employees of the facility,
16 any management agreements for the operation of the
17 facility, and of the moral character of the applicant and
18 employees as the Department may deem necessary.

19 (3) Each initial application shall be accompanied by a
20 financial statement setting forth the financial condition of
21 the applicant and by a statement from the unit of local
22 government having zoning jurisdiction over the facility's
23 location stating that the location of the facility is not in
24 violation of a zoning ordinance. An initial application for a
25 new facility shall be accompanied by a permit as required by
26 the "Illinois Health Facilities Planning Act". After the
27 application is approved, the applicant shall advise the
28 Department every 6 months of any changes in the information
29 originally provided in the application.

30 (4) Other information necessary to determine the identity
31 and qualifications of an applicant to operate a facility in
32 accordance with this Act shall be included in the application
33 as required by the Department in regulations.

34 (Source: P.A. 93-32, eff. 7-1-03.)

35 Section 27. The Pharmacy Practice Act of 1987 is amended by

1 changing Section 25 as follows:

2 (225 ILCS 85/25) (from Ch. 111, par. 4145)

3 (Section scheduled to be repealed on January 1, 2008)

4 Sec. 25. No person shall compound, or sell or offer for
5 sale, or cause to be compounded, sold or offered for sale any
6 medicine or preparation under or by a name recognized in the
7 United States Pharmacopoeia National Formulary, for internal
8 or external use, which differs from the standard of strength,
9 quality or purity as determined by the test laid down in the
10 United States Pharmacopoeia National Formulary official at the
11 time of such compounding, sale or offering for sale. Nor shall
12 any person compound, sell or offer for sale, or cause to be
13 compounded, sold, or offered for sale, any drug, medicine,
14 poison, chemical or pharmaceutical preparation, the strength
15 or purity of which shall fall below the professed standard of
16 strength or purity under which it is sold. If the physician or
17 other authorized prescriber, when transmitting an oral or
18 written prescription, does not prohibit drug product
19 selection, a different brand name or nonbrand name drug product
20 of the same generic name may be dispensed by the pharmacist,
21 provided that the selected drug has a unit price less than the
22 drug product specified in the prescription ~~and provided that~~
23 ~~the selection is permitted, is not subject to review at a~~
24 ~~meeting of the Technical Advisory Council, is not subject to a~~
25 ~~hearing in accordance with this Section, or is not specifically~~
26 ~~prohibited by the current Drug Product Selection Formulary~~
27 ~~issued by the Department of Public Health pursuant to Section~~
28 ~~3.14 of the Illinois Food, Drug and Cosmetics Act, as amended.~~
29 A generic drug determined to be therapeutically equivalent by
30 the United States Food and Drug Administration (FDA) shall be
31 available for substitution in Illinois in accordance with this
32 Act and the Illinois Food, Drug and Cosmetic Act, provided that
33 each manufacturer submits to the Director of the Department of
34 Public Health a notification containing product technical
35 bioequivalence information as a prerequisite to product

1 substitution when they have completed all required testing to
2 support FDA product approval and, in any event, the information
3 shall be submitted no later than 60 days prior to product
4 substitution in the State. ~~If the Technical Advisory Council~~
5 ~~finds that a generic drug product may have issues related to~~
6 ~~the practice of medicine or the practice of pharmacy, the~~
7 ~~Technical Advisory Council shall review the generic drug~~
8 ~~product at its next regularly scheduled Technical Advisory~~
9 ~~Council meeting. Following the Technical Advisory Council's~~
10 ~~review and initial recommendation that a generic drug product~~
11 ~~not be included in the Illinois Formulary, a hearing shall be~~
12 ~~conducted in accordance with the rules of the Department of~~
13 ~~Public Health and Article 10 of the Illinois Administrative~~
14 ~~Procedure Act if requested by the manufacturer. The Technical~~
15 ~~Advisory Council shall make its recommendation to the~~
16 ~~Department of Public Health within 20 business days after the~~
17 ~~public hearing. If the Department of Public Health, on the~~
18 ~~recommendation of the Technical Advisory Council, determines~~
19 ~~that, based upon a preponderance of the evidence, the drug is~~
20 ~~not bioequivalent, not therapeutically equivalent, or could~~
21 ~~cause clinically significant harm to the health or safety of~~
22 ~~patients receiving that generic drug, the Department of Public~~
23 ~~Health may prohibit the generic drug from substitution in the~~
24 ~~State. A decision by the Department of Public Health to~~
25 ~~prohibit a drug product from substitution shall constitute a~~
26 ~~final administrative decision within the meaning of Section~~
27 ~~22.2 of the Illinois Food, Drug and Cosmetic Act and Section~~
28 ~~3-101 of the Code of Civil Procedure, and shall be subject to~~
29 ~~judicial review pursuant to the provisions of Article III of~~
30 ~~the Administrative Review Law. A decision to prohibit a generic~~
31 ~~drug from substitution must be accompanied by a written~~
32 ~~detailed explanation of the basis for the decision. On the~~
33 prescription forms of prescribers, shall be placed a signature
34 line and the words "may substitute" and "may not substitute".
35 The prescriber, in his or her own handwriting, shall place a
36 mark beside either the "may substitute" or "may not substitute"

1 alternatives to guide the pharmacist in the dispensing of the
2 prescription. A prescriber placing a mark beside the "may
3 substitute" alternative or failing in his or her own
4 handwriting to place a mark beside either alternative
5 authorizes drug product selection in accordance with this Act.
6 Preprinted or rubber stamped marks, or other deviations from
7 the above prescription format shall not be permitted. The
8 prescriber shall sign the form in his or her own handwriting to
9 authorize the issuance of the prescription. When a person
10 presents a prescription to be dispensed, the pharmacist to whom
11 it is presented may inform the person if the pharmacy has
12 available a different brand name or nonbrand name of the same
13 generic drug prescribed and the price of the different brand
14 name or nonbrand name of the drug product. If the person
15 presenting the prescription is the one to whom the drug is to
16 be administered, the pharmacist may dispense the prescription
17 with the brand prescribed or a different brand name or nonbrand
18 name product of the same generic name ~~that has been permitted~~
19 ~~by the Department of Public Health~~, if the drug is of lesser
20 unit cost and the patient is informed and agrees to the
21 selection and the pharmacist shall enter such information into
22 the pharmacy record. If the person presenting the prescription
23 is someone other than the one to whom the drug is to be
24 administered the pharmacist shall not dispense the
25 prescription with a brand other than the one specified in the
26 prescription unless the pharmacist has the written or oral
27 authorization to select brands from the person to whom the drug
28 is to be administered or a parent, legal guardian or spouse of
29 that person.

30 In every case in which a selection is made as permitted by
31 the Illinois Food, Drug and Cosmetic Act, the pharmacist shall
32 indicate on the pharmacy record of the filled prescription the
33 name or other identification of the manufacturer of the drug
34 which has been dispensed.

35 The selection of any drug product by a pharmacist shall not
36 constitute evidence of negligence if the selected nonlegend

1 drug product was of the same dosage form and each of its active
2 ingredients did not vary by more than 1 percent from the active
3 ingredients of the prescribed, brand name, nonlegend drug
4 product ~~or if the selected legend drug product was included in~~
5 ~~the Illinois Drug Product Selection Formulary current at the~~
6 ~~time the prescription was dispensed.~~ Failure of a prescribing
7 physician to specify that drug product selection is prohibited
8 does not constitute evidence of negligence unless that
9 practitioner has reasonable cause to believe that the health
10 condition of the patient for whom the physician is prescribing
11 warrants the use of the brand name drug product and not
12 another.

13 The Department is authorized to employ an analyst or
14 chemist of recognized or approved standing whose duty it shall
15 be to examine into any claimed adulteration, illegal
16 substitution, improper selection, alteration, or other
17 violation hereof, and report the result of his investigation,
18 and if such report justify such action the Department shall
19 cause the offender to be prosecuted.

20 (Source: P.A. 91-766, eff. 9-1-00; 92-112, eff. 7-20-01.)

21 Section 30. The Illinois Public Aid Code is amended by
22 changing Sections 5-5, 5-5.4, 5A-2, 5A-4, 5A-5, 5A-7, and 5A-12
23 and adding Sections 5-5.4c and 12-10.7 as follows:

24 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

25 Sec. 5-5. Medical services. The Illinois Department, by
26 rule, shall determine the quantity and quality of and the rate
27 of reimbursement for the medical assistance for which payment
28 will be authorized, and the medical services to be provided,
29 which may include all or part of the following: (1) inpatient
30 hospital services; (2) outpatient hospital services; (3) other
31 laboratory and X-ray services; (4) skilled nursing home
32 services; (5) physicians' services whether furnished in the
33 office, the patient's home, a hospital, a skilled nursing home,
34 or elsewhere; (6) medical care, or any other type of remedial

1 care furnished by licensed practitioners; (7) home health care
2 services; (8) private duty nursing service; (9) clinic
3 services; (10) dental services; (11) physical therapy and
4 related services; (12) prescribed drugs, dentures, and
5 prosthetic devices; and eyeglasses prescribed by a physician
6 skilled in the diseases of the eye, or by an optometrist,
7 whichever the person may select; (13) other diagnostic,
8 screening, preventive, and rehabilitative services; (14)
9 transportation and such other expenses as may be necessary;
10 (15) medical treatment of sexual assault survivors, as defined
11 in Section 1a of the Sexual Assault Survivors Emergency
12 Treatment Act, for injuries sustained as a result of the sexual
13 assault, including examinations and laboratory tests to
14 discover evidence which may be used in criminal proceedings
15 arising from the sexual assault; (16) the diagnosis and
16 treatment of sickle cell anemia; and (17) any other medical
17 care, and any other type of remedial care recognized under the
18 laws of this State, but not including abortions, or induced
19 miscarriages or premature births, unless, in the opinion of a
20 physician, such procedures are necessary for the preservation
21 of the life of the woman seeking such treatment, or except an
22 induced premature birth intended to produce a live viable child
23 and such procedure is necessary for the health of the mother or
24 her unborn child. The Illinois Department, by rule, shall
25 prohibit any physician from providing medical assistance to
26 anyone eligible therefor under this Code where such physician
27 has been found guilty of performing an abortion procedure in a
28 wilful and wanton manner upon a woman who was not pregnant at
29 the time such abortion procedure was performed. The term "any
30 other type of remedial care" shall include nursing care and
31 nursing home service for persons who rely on treatment by
32 spiritual means alone through prayer for healing.

33 Notwithstanding any other provision of this Section, a
34 comprehensive tobacco use cessation program that includes
35 purchasing prescription drugs or prescription medical devices
36 approved by the Food and Drug administration shall be covered

1 under the medical assistance program under this Article for
2 persons who are otherwise eligible for assistance under this
3 Article.

4 Notwithstanding any other provision of this Code, the
5 Illinois Department may not require, as a condition of payment
6 for any laboratory test authorized under this Article, that a
7 physician's handwritten signature appear on the laboratory
8 test order form. The Illinois Department may, however, impose
9 other appropriate requirements regarding laboratory test order
10 documentation.

11 The Illinois Department of Public Aid shall provide the
12 following services to persons eligible for assistance under
13 this Article who are participating in education, training or
14 employment programs operated by the Department of Human
15 Services as successor to the Department of Public Aid:

16 (1) dental services, which shall include but not be
17 limited to prosthodontics; and

18 (2) eyeglasses prescribed by a physician skilled in the
19 diseases of the eye, or by an optometrist, whichever the
20 person may select.

21 The Illinois Department, by rule, may distinguish and
22 classify the medical services to be provided only in accordance
23 with the classes of persons designated in Section 5-2.

24 The Illinois Department shall authorize the provision of,
25 and shall authorize payment for, screening by low-dose
26 mammography for the presence of occult breast cancer for women
27 35 years of age or older who are eligible for medical
28 assistance under this Article, as follows: a baseline mammogram
29 for women 35 to 39 years of age and an annual mammogram for
30 women 40 years of age or older. All screenings shall include a
31 physical breast exam, instruction on self-examination and
32 information regarding the frequency of self-examination and
33 its value as a preventative tool. As used in this Section,
34 "low-dose mammography" means the x-ray examination of the
35 breast using equipment dedicated specifically for mammography,
36 including the x-ray tube, filter, compression device, image

1 receptor, and cassettes, with an average radiation exposure
2 delivery of less than one rad mid-breast, with 2 views for each
3 breast.

4 Any medical or health care provider shall immediately
5 recommend, to any pregnant woman who is being provided prenatal
6 services and is suspected of drug abuse or is addicted as
7 defined in the Alcoholism and Other Drug Abuse and Dependency
8 Act, referral to a local substance abuse treatment provider
9 licensed by the Department of Human Services or to a licensed
10 hospital which provides substance abuse treatment services.
11 The Department of Public Aid shall assure coverage for the cost
12 of treatment of the drug abuse or addiction for pregnant
13 recipients in accordance with the Illinois Medicaid Program in
14 conjunction with the Department of Human Services.

15 All medical providers providing medical assistance to
16 pregnant women under this Code shall receive information from
17 the Department on the availability of services under the Drug
18 Free Families with a Future or any comparable program providing
19 case management services for addicted women, including
20 information on appropriate referrals for other social services
21 that may be needed by addicted women in addition to treatment
22 for addiction.

23 The Illinois Department, in cooperation with the
24 Departments of Human Services (as successor to the Department
25 of Alcoholism and Substance Abuse) and Public Health, through a
26 public awareness campaign, may provide information concerning
27 treatment for alcoholism and drug abuse and addiction, prenatal
28 health care, and other pertinent programs directed at reducing
29 the number of drug-affected infants born to recipients of
30 medical assistance.

31 Neither the Illinois Department of Public Aid nor the
32 Department of Human Services shall sanction the recipient
33 solely on the basis of her substance abuse.

34 The Illinois Department shall establish such regulations
35 governing the dispensing of health services under this Article
36 as it shall deem appropriate. The Department should seek the

1 advice of formal professional advisory committees appointed by
2 the Director of the Illinois Department for the purpose of
3 providing regular advice on policy and administrative matters,
4 information dissemination and educational activities for
5 medical and health care providers, and consistency in
6 procedures to the Illinois Department.

7 The Illinois Department may develop and contract with
8 Partnerships of medical providers to arrange medical services
9 for persons eligible under Section 5-2 of this Code.
10 Implementation of this Section may be by demonstration projects
11 in certain geographic areas. The Partnership shall be
12 represented by a sponsor organization. The Department, by rule,
13 shall develop qualifications for sponsors of Partnerships.
14 Nothing in this Section shall be construed to require that the
15 sponsor organization be a medical organization.

16 The sponsor must negotiate formal written contracts with
17 medical providers for physician services, inpatient and
18 outpatient hospital care, home health services, treatment for
19 alcoholism and substance abuse, and other services determined
20 necessary by the Illinois Department by rule for delivery by
21 Partnerships. Physician services must include prenatal and
22 obstetrical care. The Illinois Department shall reimburse
23 medical services delivered by Partnership providers to clients
24 in target areas according to provisions of this Article and the
25 Illinois Health Finance Reform Act, except that:

26 (1) Physicians participating in a Partnership and
27 providing certain services, which shall be determined by
28 the Illinois Department, to persons in areas covered by the
29 Partnership may receive an additional surcharge for such
30 services.

31 (2) The Department may elect to consider and negotiate
32 financial incentives to encourage the development of
33 Partnerships and the efficient delivery of medical care.

34 (3) Persons receiving medical services through
35 Partnerships may receive medical and case management
36 services above the level usually offered through the

1 medical assistance program.

2 Medical providers shall be required to meet certain
3 qualifications to participate in Partnerships to ensure the
4 delivery of high quality medical services. These
5 qualifications shall be determined by rule of the Illinois
6 Department and may be higher than qualifications for
7 participation in the medical assistance program. Partnership
8 sponsors may prescribe reasonable additional qualifications
9 for participation by medical providers, only with the prior
10 written approval of the Illinois Department.

11 Nothing in this Section shall limit the free choice of
12 practitioners, hospitals, and other providers of medical
13 services by clients. In order to ensure patient freedom of
14 choice, the Illinois Department shall immediately promulgate
15 all rules and take all other necessary actions so that provided
16 services may be accessed from therapeutically certified
17 optometrists to the full extent of the Illinois Optometric
18 Practice Act of 1987 without discriminating between service
19 providers.

20 The Department shall apply for a waiver from the United
21 States Health Care Financing Administration to allow for the
22 implementation of Partnerships under this Section.

23 The Illinois Department shall require health care
24 providers to maintain records that document the medical care
25 and services provided to recipients of Medical Assistance under
26 this Article. The Illinois Department shall require health care
27 providers to make available, when authorized by the patient, in
28 writing, the medical records in a timely fashion to other
29 health care providers who are treating or serving persons
30 eligible for Medical Assistance under this Article. All
31 dispensers of medical services shall be required to maintain
32 and retain business and professional records sufficient to
33 fully and accurately document the nature, scope, details and
34 receipt of the health care provided to persons eligible for
35 medical assistance under this Code, in accordance with
36 regulations promulgated by the Illinois Department. The rules

1 and regulations shall require that proof of the receipt of
2 prescription drugs, dentures, prosthetic devices and
3 eyeglasses by eligible persons under this Section accompany
4 each claim for reimbursement submitted by the dispenser of such
5 medical services. No such claims for reimbursement shall be
6 approved for payment by the Illinois Department without such
7 proof of receipt, unless the Illinois Department shall have put
8 into effect and shall be operating a system of post-payment
9 audit and review which shall, on a sampling basis, be deemed
10 adequate by the Illinois Department to assure that such drugs,
11 dentures, prosthetic devices and eyeglasses for which payment
12 is being made are actually being received by eligible
13 recipients. Within 90 days after the effective date of this
14 amendatory Act of 1984, the Illinois Department shall establish
15 a current list of acquisition costs for all prosthetic devices
16 and any other items recognized as medical equipment and
17 supplies reimbursable under this Article and shall update such
18 list on a quarterly basis, except that the acquisition costs of
19 all prescription drugs shall be updated no less frequently than
20 every 30 days as required by Section 5-5.12.

21 The rules and regulations of the Illinois Department shall
22 require that a written statement including the required opinion
23 of a physician shall accompany any claim for reimbursement for
24 abortions, or induced miscarriages or premature births. This
25 statement shall indicate what procedures were used in providing
26 such medical services.

27 The Illinois Department shall require all dispensers of
28 medical services, other than an individual practitioner or
29 group of practitioners, desiring to participate in the Medical
30 Assistance program established under this Article to disclose
31 all financial, beneficial, ownership, equity, surety or other
32 interests in any and all firms, corporations, partnerships,
33 associations, business enterprises, joint ventures, agencies,
34 institutions or other legal entities providing any form of
35 health care services in this State under this Article.

36 The Illinois Department may require that all dispensers of

1 medical services desiring to participate in the medical
2 assistance program established under this Article disclose,
3 under such terms and conditions as the Illinois Department may
4 by rule establish, all inquiries from clients and attorneys
5 regarding medical bills paid by the Illinois Department, which
6 inquiries could indicate potential existence of claims or liens
7 for the Illinois Department.

8 Enrollment of a vendor that provides non-emergency medical
9 transportation, defined by the Department by rule, shall be
10 conditional for 180 days. During that time, the Department of
11 Public Aid may terminate the vendor's eligibility to
12 participate in the medical assistance program without cause.
13 That termination of eligibility is not subject to the
14 Department's hearing process.

15 The Illinois Department shall establish policies,
16 procedures, standards and criteria by rule for the acquisition,
17 repair and replacement of orthotic and prosthetic devices and
18 durable medical equipment. Such rules shall provide, but not be
19 limited to, the following services: (1) immediate repair or
20 replacement of such devices by recipients without medical
21 authorization; and (2) rental, lease, purchase or
22 lease-purchase of durable medical equipment in a
23 cost-effective manner, taking into consideration the
24 recipient's medical prognosis, the extent of the recipient's
25 needs, and the requirements and costs for maintaining such
26 equipment. Such rules shall enable a recipient to temporarily
27 acquire and use alternative or substitute devices or equipment
28 pending repairs or replacements of any device or equipment
29 previously authorized for such recipient by the Department.
30 ~~Rules under clause (2) above shall not provide for purchase or~~
31 ~~lease-purchase of durable medical equipment or supplies used~~
32 ~~for the purpose of oxygen delivery and respiratory care.~~

33 The Department shall execute, relative to the nursing home
34 prescreening project, written inter-agency agreements with the
35 Department of Human Services and the Department on Aging, to
36 effect the following: (i) intake procedures and common

1 eligibility criteria for those persons who are receiving
2 non-institutional services; and (ii) the establishment and
3 development of non-institutional services in areas of the State
4 where they are not currently available or are undeveloped.

5 The Illinois Department shall develop and operate, in
6 cooperation with other State Departments and agencies and in
7 compliance with applicable federal laws and regulations,
8 appropriate and effective systems of health care evaluation and
9 programs for monitoring of utilization of health care services
10 and facilities, as it affects persons eligible for medical
11 assistance under this Code.

12 The Illinois Department shall report annually to the
13 General Assembly, no later than the second Friday in April of
14 1979 and each year thereafter, in regard to:

15 (a) actual statistics and trends in utilization of
16 medical services by public aid recipients;

17 (b) actual statistics and trends in the provision of
18 the various medical services by medical vendors;

19 (c) current rate structures and proposed changes in
20 those rate structures for the various medical vendors; and

21 (d) efforts at utilization review and control by the
22 Illinois Department.

23 The period covered by each report shall be the 3 years
24 ending on the June 30 prior to the report. The report shall
25 include suggested legislation for consideration by the General
26 Assembly. The filing of one copy of the report with the
27 Speaker, one copy with the Minority Leader and one copy with
28 the Clerk of the House of Representatives, one copy with the
29 President, one copy with the Minority Leader and one copy with
30 the Secretary of the Senate, one copy with the Legislative
31 Research Unit, and such additional copies with the State
32 Government Report Distribution Center for the General Assembly
33 as is required under paragraph (t) of Section 7 of the State
34 Library Act shall be deemed sufficient to comply with this
35 Section.

36 (Source: P.A. 92-16, eff. 6-28-01; 92-651, eff. 7-11-02;

1 92-789, eff. 8-6-02; 93-632, eff. 2-1-04.)

2 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

3 Sec. 5-5.4. Standards of Payment - Department of Public
4 Aid. The Department of Public Aid shall develop standards of
5 payment of skilled nursing and intermediate care services in
6 facilities providing such services under this Article which:

7 (1) Provide for the determination of a facility's payment
8 for skilled nursing and intermediate care services on a
9 prospective basis. The amount of the payment rate for all
10 nursing facilities certified by the Department of Public Health
11 under the Nursing Home Care Act as Intermediate Care for the
12 Developmentally Disabled facilities, Long Term Care for Under
13 Age 22 facilities, Skilled Nursing facilities, or Intermediate
14 Care facilities under the medical assistance program shall be
15 prospectively established annually on the basis of historical,
16 financial, and statistical data reflecting actual costs from
17 prior years, which shall be applied to the current rate year
18 and updated for inflation, except that the capital cost element
19 for newly constructed facilities shall be based upon projected
20 budgets. The annually established payment rate shall take
21 effect on July 1 in 1984 and subsequent years. No rate increase
22 and no update for inflation shall be provided on or after July
23 1, 1994 and before July 1, 2005 ~~2004~~, unless specifically
24 provided for in this Section. The changes made by this
25 amendatory Act of the 93rd General Assembly extending the
26 duration of the prohibition against a rate increase or update
27 for inflation are effective retroactive to July 1, 2004.

28 For facilities licensed by the Department of Public Health
29 under the Nursing Home Care Act as Intermediate Care for the
30 Developmentally Disabled facilities or Long Term Care for Under
31 Age 22 facilities, the rates taking effect on July 1, 1998
32 shall include an increase of 3%. For facilities licensed by the
33 Department of Public Health under the Nursing Home Care Act as
34 Skilled Nursing facilities or Intermediate Care facilities,
35 the rates taking effect on July 1, 1998 shall include an

1 increase of 3% plus \$1.10 per resident-day, as defined by the
2 Department.

3 For facilities licensed by the Department of Public Health
4 under the Nursing Home Care Act as Intermediate Care for the
5 Developmentally Disabled facilities or Long Term Care for Under
6 Age 22 facilities, the rates taking effect on July 1, 1999
7 shall include an increase of 1.6% plus \$3.00 per resident-day,
8 as defined by the Department. For facilities licensed by the
9 Department of Public Health under the Nursing Home Care Act as
10 Skilled Nursing facilities or Intermediate Care facilities,
11 the rates taking effect on July 1, 1999 shall include an
12 increase of 1.6% and, for services provided on or after October
13 1, 1999, shall be increased by \$4.00 per resident-day, as
14 defined by the Department.

15 For facilities licensed by the Department of Public Health
16 under the Nursing Home Care Act as Intermediate Care for the
17 Developmentally Disabled facilities or Long Term Care for Under
18 Age 22 facilities, the rates taking effect on July 1, 2000
19 shall include an increase of 2.5% per resident-day, as defined
20 by the Department. For facilities licensed by the Department of
21 Public Health under the Nursing Home Care Act as Skilled
22 Nursing facilities or Intermediate Care facilities, the rates
23 taking effect on July 1, 2000 shall include an increase of 2.5%
24 per resident-day, as defined by the Department.

25 For facilities licensed by the Department of Public Health
26 under the Nursing Home Care Act as skilled nursing facilities
27 or intermediate care facilities, a new payment methodology must
28 be implemented for the nursing component of the rate effective
29 July 1, 2003. The Department of Public Aid shall develop the
30 new payment methodology using the Minimum Data Set (MDS) as the
31 instrument to collect information concerning nursing home
32 resident condition necessary to compute the rate. The
33 Department of Public Aid shall develop the new payment
34 methodology to meet the unique needs of Illinois nursing home
35 residents while remaining subject to the appropriations
36 provided by the General Assembly. A transition period from the

1 payment methodology in effect on June 30, 2003 to the payment
2 methodology in effect on July 1, 2003 shall be provided for a
3 period not exceeding 2 years after implementation of the new
4 payment methodology as follows:

5 (A) For a facility that would receive a lower nursing
6 component rate per patient day under the new system than
7 the facility received effective on the date immediately
8 preceding the date that the Department implements the new
9 payment methodology, the nursing component rate per
10 patient day for the facility shall be held at the level in
11 effect on the date immediately preceding the date that the
12 Department implements the new payment methodology until a
13 higher nursing component rate of reimbursement is achieved
14 by that facility.

15 (B) For a facility that would receive a higher nursing
16 component rate per patient day under the payment
17 methodology in effect on July 1, 2003 than the facility
18 received effective on the date immediately preceding the
19 date that the Department implements the new payment
20 methodology, the nursing component rate per patient day for
21 the facility shall be adjusted.

22 (C) Notwithstanding paragraphs (A) and (B), the
23 nursing component rate per patient day for the facility
24 shall be adjusted subject to appropriations provided by the
25 General Assembly.

26 For facilities licensed by the Department of Public Health
27 under the Nursing Home Care Act as Intermediate Care for the
28 Developmentally Disabled facilities or Long Term Care for Under
29 Age 22 facilities, the rates taking effect on March 1, 2001
30 shall include a statewide increase of 7.85%, as defined by the
31 Department.

32 For facilities licensed by the Department of Public Health
33 under the Nursing Home Care Act as Intermediate Care for the
34 Developmentally Disabled facilities or Long Term Care for Under
35 Age 22 facilities, the rates taking effect on April 1, 2002
36 shall include a statewide increase of 2.0%, as defined by the

1 Department. This increase terminates on July 1, 2002; beginning
2 July 1, 2002 these rates are reduced to the level of the rates
3 in effect on March 31, 2002, as defined by the Department.

4 For facilities licensed by the Department of Public Health
5 under the Nursing Home Care Act as skilled nursing facilities
6 or intermediate care facilities, the rates taking effect on
7 July 1, 2001 shall be computed using the most recent cost
8 reports on file with the Department of Public Aid no later than
9 April 1, 2000, updated for inflation to January 1, 2001. For
10 rates effective July 1, 2001 only, rates shall be the greater
11 of the rate computed for July 1, 2001 or the rate effective on
12 June 30, 2001.

13 Notwithstanding any other provision of this Section, for
14 facilities licensed by the Department of Public Health under
15 the Nursing Home Care Act as skilled nursing facilities or
16 intermediate care facilities, the Illinois Department shall
17 determine by rule the rates taking effect on July 1, 2002,
18 which shall be 5.9% less than the rates in effect on June 30,
19 2002.

20 Notwithstanding any other provision of this Section, for
21 facilities licensed by the Department of Public Health under
22 the Nursing Home Care Act as skilled nursing facilities or
23 intermediate care facilities, if the payment methodologies
24 required under Section 5A-12 and the waiver granted under 42
25 CFR 433.68 are approved by the United States Centers for
26 Medicare and Medicaid Services, the Illinois Department shall
27 determine by rule the rates taking effect on July 1, 2004 2003,
28 which shall be 3.0% greater less than the rates in effect on
29 June 30, 2004 2002. These rates ~~This rate~~ shall take effect
30 only upon approval and implementation of the payment
31 methodologies required under Section 5A-12.

32 Notwithstanding any other provisions of this Section, for
33 facilities licensed by the Department of Public Health under
34 the Nursing Home Care Act as skilled nursing facilities or
35 intermediate care facilities, the rates taking effect on
36 January 1, 2005 shall be 3% more than the rates in effect on

1 December 31, 2004.

2 For facilities licensed by the Department of Public Health
3 under the Nursing Home Care Act as Intermediate Care for the
4 Developmentally Disabled facilities or as long-term care
5 facilities for residents under 22 years of age, the rates
6 taking effect on July 1, 2003 shall include a statewide
7 increase of 4%, as defined by the Department.

8 Rates established effective each July 1 shall govern
9 payment for services rendered throughout that fiscal year,
10 except that rates established on July 1, 1996 shall be
11 increased by 6.8% for services provided on or after January 1,
12 1997. Such rates will be based upon the rates calculated for
13 the year beginning July 1, 1990, and for subsequent years
14 thereafter until June 30, 2001 shall be based on the facility
15 cost reports for the facility fiscal year ending at any point
16 in time during the previous calendar year, updated to the
17 midpoint of the rate year. The cost report shall be on file
18 with the Department no later than April 1 of the current rate
19 year. Should the cost report not be on file by April 1, the
20 Department shall base the rate on the latest cost report filed
21 by each skilled care facility and intermediate care facility,
22 updated to the midpoint of the current rate year. In
23 determining rates for services rendered on and after July 1,
24 1985, fixed time shall not be computed at less than zero. The
25 Department shall not make any alterations of regulations which
26 would reduce any component of the Medicaid rate to a level
27 below what that component would have been utilizing in the rate
28 effective on July 1, 1984.

29 (2) Shall take into account the actual costs incurred by
30 facilities in providing services for recipients of skilled
31 nursing and intermediate care services under the medical
32 assistance program.

33 (3) Shall take into account the medical and psycho-social
34 characteristics and needs of the patients.

35 (4) Shall take into account the actual costs incurred by
36 facilities in meeting licensing and certification standards

1 imposed and prescribed by the State of Illinois, any of its
2 political subdivisions or municipalities and by the U.S.
3 Department of Health and Human Services pursuant to Title XIX
4 of the Social Security Act.

5 The Department of Public Aid shall develop precise
6 standards for payments to reimburse nursing facilities for any
7 utilization of appropriate rehabilitative personnel for the
8 provision of rehabilitative services which is authorized by
9 federal regulations, including reimbursement for services
10 provided by qualified therapists or qualified assistants, and
11 which is in accordance with accepted professional practices.
12 Reimbursement also may be made for utilization of other
13 supportive personnel under appropriate supervision.

14 (Source: P.A. 92-10, eff. 6-11-01; 92-31, eff. 6-28-01; 92-597,
15 eff. 6-28-02; 92-651, eff. 7-11-02; 92-848, eff. 1-1-03; 93-20,
16 eff. 6-20-03; 93-649, eff. 1-8-04; 93-659, eff. 2-3-04; revised
17 2-3-04.)

18 (305 ILCS 5/5-5.4c new)

19 Sec. 5-5.4c. Bed reserves; approval. The Department of
20 Public Aid shall approve bed reserves at a daily rate of 75% of
21 an individual's current Medicaid per diem, for nursing
22 facilities 90% or more of whose residents are Medicaid
23 recipients and that have occupancy levels of at least 93% for
24 resident bed reserves not exceeding 10 days.

25 (305 ILCS 5/5A-2) (from Ch. 23, par. 5A-2)

26 (Section scheduled to be repealed on July 1, 2005)

27 Sec. 5A-2. Assessment; no local authorization to tax.

28 (a) Subject to Sections 5A-3 and 5A-10, an annual
29 assessment on inpatient services is imposed on each hospital
30 provider in an amount equal to the hospital's occupied bed days
31 multiplied by \$84.19 for State fiscal years 2004 and 2005, if
32 the payment methodologies required under 5A-12 and the waiver
33 granted under 42 CFR 433.68 are approved with an effective date
34 prior to July 1, 2004; or the assessment will be imposed for

1 fiscal year 2005 only, if the payment methodologies required
2 under Section 5A-12 and the waiver granted under 42 CFR 433.68
3 are approved with an effective date on or after July 1, 2004 in
4 ~~an amount equal to the hospital's occupied bed days multiplied~~
5 ~~by \$84.19.~~

6 The Department of Public Aid shall use the number of
7 occupied bed days as reported by each hospital on the Annual
8 Survey of Hospitals conducted by the Department of Public
9 Health to calculate the hospital's annual assessment. If the
10 sum of a hospital's occupied bed days is not reported on the
11 Annual Survey of Hospitals or if there are data errors in the
12 reported sum of a hospital's occupied bed days as determined by
13 the Department of Public Aid, then the Department of Public Aid
14 may obtain the sum of occupied bed days from any source
15 available, including, but not limited to, records maintained by
16 the hospital provider, which may be inspected at all times
17 during business hours of the day by the Department of Public
18 Aid or its duly authorized agents and employees.

19 (b) Nothing in this amendatory Act of the 93rd General
20 Assembly shall be construed to authorize any home rule unit or
21 other unit of local government to license for revenue or to
22 impose a tax or assessment upon hospital providers or the
23 occupation of hospital provider, or a tax or assessment
24 measured by the income or earnings of a hospital provider.

25 (c) As provided in Section 5A-14, this Section is repealed
26 on July 1, 2005.

27 (Source: P.A. 93-659, eff. 2-3-04.)

28 (305 ILCS 5/5A-4) (from Ch. 23, par. 5A-4)

29 Sec. 5A-4. Payment of assessment; penalty.

30 (a) The annual assessment imposed by Section 5A-2 for State
31 fiscal year 2004 shall be due and payable on June 18 of the
32 year. The assessment imposed by Section 5A-2 for State fiscal
33 year 2005 shall be due and payable in quarterly installments,
34 each equalling one-fourth of the assessment for the year, on
35 July 19, October 19, January 18, and April 19 of the year. No

1 installment payment of an assessment imposed by Section 5A-2
2 shall be due and payable, however, until after: (i) the
3 hospital provider receives written notice from the Department
4 of Public Aid that the payment methodologies to hospitals
5 required under Section 5A-12 have been approved by the Centers
6 for Medicare and Medicaid Services of the U.S. Department of
7 Health and Human Services and the waiver under 42 CFR 433.68
8 for the assessment imposed by Section 5A-2 has been granted by
9 the Centers for Medicare and Medicaid Services of the U.S.
10 Department of Health and Human Services; and (ii) the hospital
11 has received the payments required under Section 5A-12. Upon
12 notification to the Department of approval of the payment
13 methodologies required under Section 5A-12 and the waiver
14 granted under 42 CFR 433.68, all quarterly installments
15 otherwise due under Section 5A-2 prior to the date of
16 notification shall be due and payable to the Department within
17 30 days of the date of notification.

18 (b) The Illinois Department is authorized to establish
19 delayed payment schedules for hospital providers that are
20 unable to make installment payments when due under this Section
21 due to financial difficulties, as determined by the Illinois
22 Department.

23 (c) If a hospital provider fails to pay the full amount of
24 an installment when due (including any extensions granted under
25 subsection (b)), there shall, unless waived by the Illinois
26 Department for reasonable cause, be added to the assessment
27 imposed by Section 5A-2 a penalty assessment equal to the
28 lesser of (i) 5% of the amount of the installment not paid on
29 or before the due date plus 5% of the portion thereof remaining
30 unpaid on the last day of each 30-day period thereafter or (ii)
31 100% of the installment amount not paid on or before the due
32 date. For purposes of this subsection, payments will be
33 credited first to unpaid installment amounts (rather than to
34 penalty or interest), beginning with the most delinquent
35 installments.

36 (Source: P.A. 93-659, eff. 2-3-04.)

1 (305 ILCS 5/5A-5) (from Ch. 23, par. 5A-5)

2 Sec. 5A-5. Notice; penalty; maintenance of records.

3 (a) ~~After December 31 of each year (except as otherwise~~
4 ~~provided in this subsection), and on or before March 31 of the~~
5 ~~succeeding year, the~~ The Department of Public Aid shall send a
6 notice of assessment to every hospital provider subject to
7 assessment under this Article. The notice of assessment shall
8 notify the hospital of its assessment and ~~for the State fiscal~~
9 ~~year commencing on the next July 1, except that the notice for~~
10 ~~the State fiscal year commencing July 1, 2003~~ shall be sent
11 within 14 days of receipt by the Department of notification
12 from the Centers for Medicare and Medicaid Services of the U.S.
13 Department of Health and Human Services that the payment
14 methodologies required under Section 5A-12 and the waiver
15 granted under 42 CFR 433.68 have been approved ~~on or before~~
16 ~~June 1, 2004~~. The notice shall be on a form prepared by the
17 Illinois Department and shall state the following:

18 (1) The name of the hospital provider.

19 (2) The address of the hospital provider's principal
20 place of business from which the provider engages in the
21 occupation of hospital provider in this State, and the name
22 and address of each hospital operated, conducted, or
23 maintained by the provider in this State.

24 (3) The occupied bed days of the hospital provider, the
25 amount of assessment imposed under Section 5A-2 for the
26 State fiscal year for which the notice is sent, and the
27 amount of each quarterly installment to be paid during the
28 State fiscal year.

29 (4) (Blank).

30 (5) Other reasonable information as determined by the
31 Illinois Department.

32 (b) If a hospital provider conducts, operates, or maintains
33 more than one hospital licensed by the Illinois Department of
34 Public Health, the provider shall pay the assessment for each
35 hospital separately.

1 (c) Notwithstanding any other provision in this Article, in
2 the case of a person who ceases to conduct, operate, or
3 maintain a hospital in respect of which the person is subject
4 to assessment under this Article as a hospital provider, the
5 assessment for the State fiscal year in which the cessation
6 occurs shall be adjusted by multiplying the assessment computed
7 under Section 5A-2 by a fraction, the numerator of which is the
8 number of days in the year during which the provider conducts,
9 operates, or maintains the hospital and the denominator of
10 which is 365. Immediately upon ceasing to conduct, operate, or
11 maintain a hospital, the person shall pay the assessment for
12 the year as so adjusted (to the extent not previously paid).

13 (d) Notwithstanding any other provision in this Article, a
14 provider who commences conducting, operating, or maintaining a
15 hospital, upon notice by the Illinois Department, shall pay the
16 assessment computed under Section 5A-2 and subsection (e) in
17 installments on the due dates stated in the notice and on the
18 regular installment due dates for the State fiscal year
19 occurring after the due dates of the initial notice.

20 (e) Notwithstanding any other provision in this Article, in
21 the case of a hospital provider that did not conduct, operate,
22 or maintain a hospital throughout calendar year 2001, the
23 assessment for that State fiscal year shall be computed on the
24 basis of hypothetical occupied bed days for the full calendar
25 year as determined by the Illinois Department.

26 (f) (Blank).

27 (g) (Blank).

28 (h) (Blank).

29 (Source: P.A. 93-659, eff. 2-3-04.)

30 (305 ILCS 5/5A-7) (from Ch. 23, par. 5A-7)

31 Sec. 5A-7. Administration; enforcement provisions.

32 (a) The Illinois Department shall establish and maintain a
33 listing of all hospital providers appearing in the licensing
34 records of the Illinois Department of Public Health, which
35 shall show each provider's name and principal place of business

1 and the name and address of each hospital operated, conducted,
2 or maintained by the provider in this State. The Illinois
3 Department shall administer and enforce this Article and
4 collect the assessments and penalty assessments imposed under
5 this Article using procedures employed in its administration of
6 this Code generally. The Illinois Department, its Director, and
7 every hospital provider subject to assessment measured by
8 occupied bed days shall have the following powers, duties, and
9 rights:

10 (1) The Illinois Department may initiate either
11 administrative or judicial proceedings, or both, to
12 enforce provisions of this Article. Administrative
13 enforcement proceedings initiated hereunder shall be
14 governed by the Illinois Department's administrative
15 rules. Judicial enforcement proceedings initiated
16 hereunder shall be governed by the rules of procedure
17 applicable in the courts of this State.

18 (2) No proceedings for collection, refund, credit, or
19 other adjustment of an assessment amount shall be issued
20 more than 3 years after the due date of the assessment,
21 except in the case of an extended period agreed to in
22 writing by the Illinois Department and the hospital
23 provider before the expiration of this limitation period.

24 (3) Any unpaid assessment under this Article shall
25 become a lien upon the assets of the hospital upon which it
26 was assessed. If any hospital provider, outside the usual
27 course of its business, sells or transfers the major part
28 of any one or more of (A) the real property and
29 improvements, (B) the machinery and equipment, or (C) the
30 furniture or fixtures, of any hospital that is subject to
31 the provisions of this Article, the seller or transferor
32 shall pay the Illinois Department the amount of any
33 assessment, assessment penalty, and interest (if any) due
34 from it under this Article up to the date of the sale or
35 transfer. If the seller or transferor fails to pay any
36 assessment, assessment penalty, and interest (if any) due,

1 the purchaser or transferee of such asset shall be liable
2 for the amount of the assessment, penalties, and interest
3 (if any) up to the amount of the reasonable value of the
4 property acquired by the purchaser or transferee. The
5 purchaser or transferee shall continue to be liable until
6 the purchaser or transferee pays the full amount of the
7 assessment, penalties, and interest (if any) up to the
8 amount of the reasonable value of the property acquired by
9 the purchaser or transferee or until the purchaser or
10 transferee receives from the Illinois Department a
11 certificate showing that such assessment, penalty, and
12 interest have been paid or a certificate from the Illinois
13 Department showing that no assessment, penalty, or
14 interest is due from the seller or transferor under this
15 Article.

16 (4) Payments under this Article are not subject to the
17 Illinois Prompt Payment Act. Credits or refunds shall not
18 bear interest.

19 (b) In addition to any other remedy provided for and
20 without sending a notice of assessment liability, the Illinois
21 Department may collect an unpaid assessment by withholding, as
22 payment of the assessment, reimbursements or other amounts
23 otherwise payable by the Illinois Department to the hospital
24 provider.

25 ~~(a) To the extent practicable, the Illinois Department~~
26 ~~shall administer and enforce this Article and collect the~~
27 ~~assessments, interest, and penalty assessments imposed under~~
28 ~~this Article using procedures employed in its administration of~~
29 ~~this Code generally and, as it deems appropriate, in a manner~~
30 ~~similar to that in which the Department of Revenue administers~~
31 ~~and collects the retailers' occupation tax under the Retailers'~~
32 ~~Occupation Tax Act ("ROTA"). Instead of certificates of~~
33 ~~registration, the Illinois Department shall establish and~~
34 ~~maintain a listing of all hospital providers appearing in the~~
35 ~~licensing records of the Department of Public Health, which~~
36 ~~shall show each provider's name, principal place of business,~~

1 ~~and the name and address of each hospital operated, conducted,~~
2 ~~or maintained by the provider in this State. In addition, the~~
3 ~~following specified provisions of the Retailers' Occupation~~
4 ~~Tax Act are incorporated by reference into this Section except~~
5 ~~that the Illinois Department and its Director (rather than the~~
6 ~~Department of Revenue and its Director) and every hospital~~
7 ~~provider subject to assessment measured by occupied bed days~~
8 ~~(rather than persons subject to retailers' occupation tax~~
9 ~~measured by gross receipts from the sale of tangible personal~~
10 ~~property at retail) shall have the powers, duties, and rights~~
11 ~~specified in these ROTA provisions, as modified in this Section~~
12 ~~or by the Illinois Department in a manner consistent with this~~
13 ~~Article and except as manifestly inconsistent with the other~~
14 ~~provisions of this Article:~~

15 ~~(1) ROTA, Section 4 (examination of return; notice of~~
16 ~~correction; evidence; limitations; protest and hearing),~~
17 ~~except that (i) the Illinois Department shall issue notices~~
18 ~~of assessment liability (rather than notices of tax~~
19 ~~liability as provided in ROTA, Section 4); (ii) in the case~~
20 ~~of a fraudulent return or in the case of an extended period~~
21 ~~agreed to by the Illinois Department and the hospital~~
22 ~~provider before the expiration of the limitation period, no~~
23 ~~notice of assessment liability shall be issued more than 3~~
24 ~~years after the later of the due date of the return~~
25 ~~required by Section 5A-5 or the date the return (or an~~
26 ~~amended return) was filed (rather within the period stated~~
27 ~~in ROTA, Section 4); and (iii) the penalty provisions of~~
28 ~~ROTA, Section 4 shall not apply.~~

29 ~~(2) ROTA, Sec. 5 (failure to make return; failure to~~
30 ~~pay assessment), except that the penalty and interest~~
31 ~~provisions of ROTA, Section 5 shall not apply.~~

32 ~~(3) ROTA, Section 5a (lien; attachment; termination;~~
33 ~~notice; protest; review; release of lien; status of lien).~~

34 ~~(4) ROTA, Section 5b (State lien notices; State lien~~
35 ~~index; duties of recorder and registrar of titles).~~

36 ~~(5) ROTA, Section 5c (liens; certificate of release).~~

1 ~~(6) ROTA, Section 5d (Department not required to~~
2 ~~furnish bond; claim to property attached or levied upon).~~

3 ~~(7) ROTA, Section 5e (foreclosure on liens;~~
4 ~~enforcement).~~

5 ~~(8) ROTA, Section 5f (demand for payment; levy and sale~~
6 ~~of property; limitation).~~

7 ~~(9) ROTA, Section 5g (sale of property; redemption).~~

8 ~~(10) ROTA, Section 5j (sales on transfers outside usual~~
9 ~~course of business; report; payment of assessment; rights~~
10 ~~and duties of purchaser; penalty), except that notice shall~~
11 ~~be provided to the Illinois Department as specified by~~
12 ~~rule.~~

13 ~~(11) ROTA, Section 6 (erroneous payments; credit or~~
14 ~~refund), provided that (i) the Illinois Department may only~~
15 ~~apply an amount otherwise subject to credit or refund to a~~
16 ~~liability arising under this Article; (ii) except in the~~
17 ~~case of an extended period agreed to by the Illinois~~
18 ~~Department and the hospital provider before the expiration~~
19 ~~of this limitation period, a claim for credit or refund~~
20 ~~must be filed no more than 3 years after the due date of~~
21 ~~the return required by Section 5A-5 (rather than the time~~
22 ~~limitation stated in ROTA, Section 6); and (iii) credits or~~
23 ~~refunds shall not bear interest.~~

24 ~~(12) ROTA, Section 6a (claims for credit or refund).~~

25 ~~(13) ROTA, Section 6b (tentative determination of~~
26 ~~claim; notice; hearing; review), provided that a hospital~~
27 ~~provider or its representative shall have 60 days (rather~~
28 ~~than 20 days) within which to file a protest and request~~
29 ~~for hearing in response to a tentative determination of~~
30 ~~claim.~~

31 ~~(14) ROTA, Section 6c (finality of tentative~~
32 ~~determinations).~~

33 ~~(15) ROTA, Section 8 (investigations and hearings).~~

34 ~~(16) ROTA, Section 9 (witness; immunity).~~

35 ~~(17) ROTA, Section 10 (issuance of subpoenas;~~
36 ~~attendance of witnesses; production of books and records).~~

1 ~~(18) ROTA, Section 11 (information confidential;~~
2 ~~exceptions).~~

3 ~~(19) ROTA, Section 12 (rules and regulations; hearing;~~
4 ~~appeals), except that a hospital provider shall not be~~
5 ~~required to file a bond or be subject to a lien in lieu~~
6 ~~thereof in order to seek court review under the~~
7 ~~Administrative Review Law of a final assessment or revised~~
8 ~~final assessment or the equivalent thereof issued by the~~
9 ~~Illinois Department under this Article.~~

10 ~~(b) In addition to any other remedy provided for and~~
11 ~~without sending a notice of assessment liability, the Illinois~~
12 ~~Department may collect an unpaid assessment by withholding, as~~
13 ~~payment of the assessment, reimbursements or other amounts~~
14 ~~otherwise payable by the Illinois Department to the provider.~~

15 (Source: P.A. 93-659, eff. 2-3-04.)

16 (305 ILCS 5/5A-12)

17 (Section scheduled to be repealed on July 1, 2005)

18 Sec. 5A-12. Hospital access improvement payments.

19 (a) To improve access to hospital services, for hospital
20 services rendered on or after June 1, 2004, the Department of
21 Public Aid shall make payments to hospitals as set forth in
22 this Section, except for hospitals described in subsection (b)
23 of Section 5A-3. These payments shall be paid on a quarterly
24 basis. For State fiscal year 2004, if the effective date of the
25 approval of the payment methodology required under this Section
26 and the waiver granted under 42 CFR 433.68 by the Centers for
27 Medicare and Medicaid Services of the U.S. Department of Health
28 and Human Services is prior to July 1, 2004, the Department
29 shall pay the total amounts required for fiscal year 2004 under
30 this Section within 25 days of the latest notification; ~~these~~
31 ~~amounts shall be paid on or before June 15 of the year. No~~
32 payment shall be made for State fiscal year 2004 if the
33 effective date of the approval is on or after July 1, 2004. In
34 State fiscal year 2005 ~~subsequent State fiscal years,~~ the total
35 amounts required under this Section shall be paid in 4 equal

1 installments on or before July 15, October 15, January 14, and
2 April 15 of the year, except that if the date of notification
3 of the approval of the payment methodologies required under
4 this Section and the waiver granted under 42 CFR 433.68 is on
5 or after July 1, 2004, the sum of amounts required under this
6 Section prior to the date of notification shall be paid within
7 25 days of the date of the last notification. Payments under
8 this Section are not due and payable, however, until (i) the
9 methodologies described in this Section are approved by the
10 federal government in an appropriate State Plan amendment, (ii)
11 the assessment imposed under this Article is determined to be a
12 permissible tax under Title XIX of the Social Security Act, and
13 (iii) the assessment is in effect.

14 (b) High volume payment. In addition to rates paid for
15 inpatient hospital services, the Department of Public Aid shall
16 pay, to each Illinois hospital that provided more than 20,000
17 Medicaid inpatient days of care during State fiscal year 2001
18 (except for hospitals that qualify for adjustment payments
19 under Section 5-5.02 for the 12-month period beginning on
20 October 1, 2002), \$190 for each Medicaid inpatient day of care
21 provided during that fiscal year. A hospital that provided less
22 than 30,000 Medicaid inpatient days of care during that period,
23 however, is not entitled to receive more than \$3,500,000 per
24 year in such payments.

25 (c) Medicaid inpatient utilization rate adjustment. In
26 addition to rates paid for inpatient hospital services, the
27 Department of Public Aid shall pay each Illinois hospital
28 (except for hospitals described in Section 5A-3), for each
29 Medicaid inpatient day of care provided during State fiscal
30 year 2001, an amount equal to the product of \$57.25 multiplied
31 by the quotient of 1 divided by the greater of 1.6% or the
32 hospital's Medicaid inpatient utilization rate (as used to
33 determine eligibility for adjustment payments under Section
34 5-5.02 for the 12-month period beginning on October 1, 2002).
35 The total payments under this subsection to a hospital may not
36 exceed \$10,500,000 annually.

1 (d) Psychiatric base rate adjustment.

2 (1) In addition to rates paid for inpatient psychiatric
3 services, the Department of Public Aid shall pay each
4 Illinois general acute care hospital with a distinct
5 part-psychiatric unit, for each Medicaid inpatient
6 psychiatric day of care provided in State fiscal year 2001,
7 an amount equal to \$400 less the hospital's per-diem rate
8 for Medicaid inpatient psychiatric services as in effect on
9 October 1, 2003. In no event, however, shall that amount be
10 less than zero.

11 (2) For distinct part-psychiatric units of Illinois
12 general acute care hospitals, except for all hospitals
13 excluded in Section 5A-3, whose inpatient per-diem rate as
14 in effect on October 1, 2003 is greater than \$400, the
15 Department shall pay, in addition to any other amounts
16 authorized under this Code, \$25 for each Medicaid inpatient
17 psychiatric day of care provided in State fiscal year 2001.

18 (e) Supplemental tertiary care adjustment. In addition to
19 rates paid for inpatient services, the Department of Public Aid
20 shall pay to each Illinois hospital eligible for tertiary care
21 adjustment payments under 89 Ill. Adm. Code 148.296, as in
22 effect for State fiscal year 2003, a supplemental tertiary care
23 adjustment payment equal to the tertiary care adjustment
24 payment required under 89 Ill. Adm. Code 148.296, as in effect
25 for State fiscal year 2003.

26 (f) Medicaid outpatient utilization rate adjustment. In
27 addition to rates paid for outpatient hospital services, the
28 Department of Public Aid shall pay each Illinois hospital
29 (except for hospitals described in Section 5A-3), an amount
30 equal to the product of 2.45% multiplied by the hospital's
31 Medicaid outpatient charges multiplied by the quotient of 1
32 divided by the greater of 1.6% or the hospital's Medicaid
33 outpatient utilization rate. The total payments under this
34 subsection to a hospital may not exceed \$6,750,000 annually.

35 For purposes of this subsection:

36 "Medicaid outpatient charges" means the charges for

1 outpatient services provided to Medicaid patients for State
2 fiscal year 2001 as submitted by the hospital on the UB-92
3 billing form or under the ambulatory procedure listing and
4 adjudicated by the Department of Public Aid on or before
5 September 12, 2003.

6 "Medicaid outpatient utilization rate" means a fraction,
7 the numerator of which is the hospital's Medicaid outpatient
8 charges and the denominator of which is the total number of the
9 hospital's charges for outpatient services for the hospital's
10 fiscal year ending in 2001.

11 (g) State outpatient service adjustment. In addition to
12 rates paid for outpatient hospital services, the Department of
13 Public Aid shall pay each Illinois hospital an amount equal to
14 the product of 75.5% multiplied by the hospital's Medicaid
15 outpatient services submitted to the Department on the UB-92
16 billing form for State fiscal year 2001 multiplied by the
17 hospital's outpatient access fraction.

18 For purposes of this subsection, "outpatient access
19 fraction" means a fraction, the numerator of which is the
20 hospital's Medicaid payments for outpatient services for
21 ambulatory procedure listing services submitted to the
22 Department on the UB-92 billing form for State fiscal year
23 2001, and the denominator of which is the hospital's Medicaid
24 outpatient services submitted to the Department on the UB-92
25 billing form for State fiscal year 2001.

26 The total payments under this subsection to a hospital may
27 not exceed \$3,000,000 annually.

28 (h) Rural hospital outpatient adjustment. In addition to
29 rates paid for outpatient hospital services, the Department of
30 Public Aid shall pay each Illinois rural hospital an amount
31 equal to the product of \$14,500,000 multiplied by the rural
32 hospital outpatient adjustment fraction.

33 For purposes of this subsection, "rural hospital
34 outpatient adjustment fraction" means a fraction, the
35 numerator of which is the hospital's Medicaid visits for
36 outpatient services for ambulatory procedure listing services

1 submitted to the Department on the UB-92 billing form for State
2 fiscal year 2001, and the denominator of which is the total
3 Medicaid visits for outpatient services for ambulatory
4 procedure listing services for all Illinois rural hospitals
5 submitted to the Department on the UB-92 billing form for State
6 fiscal year 2001.

7 For purposes of this subsection, "rural hospital" has the
8 same meaning as in 89 Ill. Adm. Code 148.25, as in effect on
9 September 30, 2003.

10 (i) Merged/closed hospital adjustment. If any hospital
11 files a combined Medicaid cost report with another hospital
12 after January 1, 2001, and if that hospital subsequently
13 closes, then except for the payments described in subsection
14 (e), all payments described in the various subsections of this
15 Section shall, before the application of the annual limitation
16 amount specified in each such subsection, be multiplied by a
17 fraction, the numerator of which is the number of occupied bed
18 days attributable to the open hospital and the denominator of
19 which is the sum of the number of occupied bed days of each
20 open hospital and each closed hospital. For purposes of this
21 subsection, "occupied bed days" has the same meaning as the
22 term is defined in subsection (a) of Section 5A-2.

23 (j) For purposes of this Section, the terms "Medicaid
24 days", "Medicaid charges", and "Medicaid services" do not
25 include any days, charges, or services for which Medicare was
26 liable for payment.

27 (k) As provided in Section 5A-14, this Section is repealed
28 on July 1, 2005.

29 (Source: P.A. 93-659, eff. 2-3-04.)

30 (305 ILCS 5/12-10.7 new)

31 Sec. 12-10.7. The Health and Human Services Medicaid Trust
32 Fund.

33 (a) The Health and Human Services Medicaid Trust Fund shall
34 consist of (i) moneys appropriated or transferred into the
35 Fund, pursuant to statute, (ii) federal financial

1 participation moneys received pursuant to expenditures from
2 the Fund, and (iii) the interest earned on moneys in the Fund.

3 (b) Subject to appropriation, the moneys in the Fund shall
4 be used by a State agency for such purposes as that agency may,
5 by the appropriation language, be directed.

6 Section 35. The Senior Citizens and Disabled Persons
7 Property Tax Relief and Pharmaceutical Assistance Act is
8 amended by changing Section 6 as follows:

9 (320 ILCS 25/6) (from Ch. 67 1/2, par. 406)

10 Sec. 6. Administration.

11 (a) In general. Upon receipt of a timely filed claim, the
12 Department shall determine whether the claimant is a person
13 entitled to a grant under this Act and the amount of grant to
14 which he is entitled under this Act. The Department may require
15 the claimant to furnish reasonable proof of the statements of
16 domicile, household income, rent paid, property taxes accrued
17 and other matters on which entitlement is based, and may
18 withhold payment of a grant until such additional proof is
19 furnished.

20 (b) Rental determination. If the Department finds that the
21 gross rent used in the computation by a claimant of rent
22 constituting property taxes accrued exceeds the fair rental
23 value for the right to occupy that residence, the Department
24 may determine the fair rental value for that residence and
25 recompute rent constituting property taxes accrued
26 accordingly.

27 (c) Fraudulent claims. The Department shall deny claims
28 which have been fraudulently prepared or when it finds that the
29 claimant has acquired title to his residence or has paid rent
30 for his residence primarily for the purpose of receiving a
31 grant under this Act.

32 (d) Pharmaceutical Assistance. The Department shall allow
33 all pharmacies licensed under the Pharmacy Practice Act of 1987
34 to participate as authorized pharmacies unless they have been

1 removed from that status for cause pursuant to the terms of
2 this Section. The Director of the Department may enter into a
3 written contract with any State agency, instrumentality or
4 political subdivision, or a fiscal intermediary for the purpose
5 of making payments to authorized pharmacies for covered
6 prescription drugs and coordinating the program of
7 pharmaceutical assistance established by this Act with other
8 programs that provide payment for covered prescription drugs.
9 Such agreement shall establish procedures for properly
10 contracting for pharmacy services, validating reimbursement
11 claims, validating compliance of dispensing pharmacists with
12 the contracts for participation required under this Section,
13 validating the reasonable costs of covered prescription drugs,
14 and otherwise providing for the effective administration of
15 this Act.

16 The Department shall promulgate rules and regulations to
17 implement and administer the program of pharmaceutical
18 assistance required by this Act, which shall include the
19 following:

20 (1) Execution of contracts with pharmacies to dispense
21 covered prescription drugs. Such contracts shall stipulate
22 terms and conditions for authorized pharmacies
23 participation and the rights of the State to terminate such
24 participation for breach of such contract or for violation
25 of this Act or related rules and regulations of the
26 Department;

27 (2) Establishment of maximum limits on the size of
28 prescriptions, new or refilled, which shall be in amounts
29 sufficient for 34 days, except as otherwise specified by
30 rule for medical or utilization control reasons;

31 (3) Establishment of liens upon any and all causes of
32 action which accrue to a beneficiary as a result of
33 injuries for which covered prescription drugs are directly
34 or indirectly required and for which the Director made
35 payment or became liable for under this Act;

36 (4) Charge or collection of payments from third parties

1 or private plans of assistance, or from other programs of
2 public assistance for any claim that is properly chargeable
3 under the assignment of benefits executed by beneficiaries
4 as a requirement of eligibility for the pharmaceutical
5 assistance identification card under this Act;

6 (4.5) Provision for automatic enrollment of
7 beneficiaries into a Medicare Discount Card program
8 authorized under the federal Medicare Modernization Act of
9 2003 (P.L. 108-391) to coordinate coverage including
10 Medicare Transitional Assistance;

11 (5) Inspection of appropriate records and audit of
12 participating authorized pharmacies to ensure contract
13 compliance, and to determine any fraudulent transactions
14 or practices under this Act;

15 (6) Annual determination of the reasonable costs of
16 covered prescription drugs for which payments are made
17 under this Act, as provided in Section 3.16;

18 (7) Payment to pharmacies under this Act in accordance
19 with the State Prompt Payment Act.

20 The Department shall annually report to the Governor and
21 the General Assembly by March 1st of each year on the
22 administration of pharmaceutical assistance under this Act. By
23 the effective date of this Act the Department shall determine
24 the reasonable costs of covered prescription drugs in
25 accordance with Section 3.16 of this Act.

26 (Source: P.A. 91-357, eff. 7-29-99; 92-651, eff. 7-11-02.)

27 Section 40. The Illinois Food, Drug and Cosmetic Act is
28 amended by changing Section 3.14 as follows:

29 (410 ILCS 620/3.14) (from Ch. 56 1/2, par. 503.14)

30 Sec. 3.14. Dispensing or causing to be dispensed a
31 different drug in place of the drug or brand of drug ordered or
32 prescribed without the express permission of the person
33 ordering or prescribing. However, this Section does not
34 prohibit the interchange of different brands of the same

1 generically equivalent drug product, when the drug products are
2 not required to bear the legend "Caution: Federal law prohibits
3 dispensing without prescription", provided that the same
4 dosage form is dispensed and there is no greater than 1%
5 variance in the stated amount of each active ingredient of the
6 drug products. ~~Nothing in this Section shall prohibit the~~
7 ~~selection of different brands of the same generic drug, based~~
8 ~~upon a drug formulary listing which is developed, maintained,~~
9 ~~and issued by the Department of Public Health under which drug~~
10 ~~product selection is permitted, is not subject to review at a~~
11 ~~meeting of the Technical Advisory Council, is not subject to a~~
12 ~~hearing in accordance with this Section, or is not specifically~~
13 ~~prohibited.~~ A generic drug determined to be therapeutically
14 equivalent by the United States Food and Drug Administration
15 (FDA) shall be available for substitution in Illinois in
16 accordance with this Act and the Pharmacy Practice Act of 1987,
17 provided that each manufacturer submits to the Director of the
18 Department of Public Health a notification containing product
19 technical bioequivalence information as a prerequisite to
20 product substitution when they have completed all required
21 testing to support FDA product approval and, in any event, the
22 information shall be submitted no later than 60 days prior to
23 product substitution in the State. ~~If the Technical Advisory~~
24 ~~Council finds that a generic drug product may have issues~~
25 ~~related to the practice of medicine or the practice of~~
26 ~~pharmacy, the Technical Advisory Council shall review the~~
27 ~~generic drug product at its next regularly scheduled Technical~~
28 ~~Advisory Council meeting. Following the Technical Advisory~~
29 ~~Council's review and initial recommendation that a generic drug~~
30 ~~product not be included in the Illinois Formulary, a hearing~~
31 ~~shall be conducted in accordance with the Department's Rules of~~
32 ~~Practice and Procedure in Administrative Hearings (77 Ill.~~
33 ~~Admin. Code 100) and Article 10 of the Illinois Administrative~~
34 ~~Procedure Act if requested by the manufacturer. The Technical~~
35 ~~Advisory Council shall make its recommendation to the~~
36 ~~Department of Public Health within 20 business days after the~~

1 ~~public hearing. If the Department of Public Health, on the~~
2 ~~recommendation of the Technical Advisory Council, determines~~
3 ~~that, based upon a preponderance of the evidence, the drug is~~
4 ~~not bioequivalent, not therapeutically equivalent, or could~~
5 ~~cause clinically significant harm to the health or safety of~~
6 ~~patients receiving that generic drug, the Department of Public~~
7 ~~Health may prohibit the generic drug from substitution in the~~
8 ~~State. A decision by the Department to prohibit a drug product~~
9 ~~from substitution shall constitute a final administrative~~
10 ~~decision within the meaning of Section 22.2 of the Illinois~~
11 ~~Food, Drug and Cosmetic Act and Section 3-101 of the Code of~~
12 ~~Civil Procedure, and shall be subject to judicial review~~
13 ~~pursuant to the provisions of Article III of the Administrative~~
14 ~~Review Law. A decision to prohibit a generic drug from~~
15 ~~substitution must be accompanied by a written detailed~~
16 ~~explanation of the basis for the decision. Determination of~~
17 ~~products which may be selected shall be recommended by a~~
18 ~~Technical Advisory Council of the Department, selected by the~~
19 ~~Director of Public Health, which council shall consist of 7~~
20 ~~persons including 2 physicians, 2 pharmacists, 2~~
21 ~~pharmacologists and one other prescriber who have special~~
22 ~~knowledge of generic drugs and formulary. Technical Advisory~~
23 ~~Council members shall serve without pay, and shall be appointed~~
24 ~~for a 3 year term and until their successors are appointed and~~
25 ~~qualified. The procedures for operation of the Drug Product~~
26 ~~Selection Program shall be promulgated by the Director, however~~
27 ~~the actual list of products prohibited or approved for drug~~
28 ~~product selection need not be promulgated. The Technical~~
29 ~~Advisory Council shall take cognizance of federal studies, the~~
30 ~~U.S. Pharmacopoeia National Formulary, or other recognized~~
31 ~~authoritative sources, and shall advise the Director of any~~
32 ~~necessary modifications. Drug products previously approved by~~
33 ~~the Technical Advisory Council for generic interchange may be~~
34 ~~substituted in the State of Illinois without further review~~
35 ~~subject to the conditions of approval in the State of Illinois~~
36 ~~prior to the effective date of this amendatory Act of the 91st~~

1 ~~General Assembly.~~

2 ~~Timely notice of revisions to the formulary shall be~~
3 ~~furnished at no charge to all pharmacies by the Department.~~
4 ~~Single copies of the drug formulary shall be made available at~~
5 ~~no charge upon request to licensed prescribers, student~~
6 ~~pharmacists, and pharmacists practicing pharmacy in this State~~
7 ~~under a reciprocal license. The Department shall offer~~
8 ~~subscriptions to the drug formulary and its revisions to other~~
9 ~~interested parties at a reasonable charge to be established by~~
10 ~~rule. Before the Department makes effective any additions to or~~
11 ~~deletions from the procedures for operation of the Drug Product~~
12 ~~Selection Program under this Section, the Department shall file~~
13 ~~proposed rules to amend the procedures for operation of the~~
14 ~~program under Section 5-40 of the Illinois Administrative~~
15 ~~Procedure Act. The Department shall issue necessary rules and~~
16 ~~regulations for the implementation of this Section.~~

17 (Source: P.A. 91-766, eff. 9-1-00; 92-112, eff. 7-20-01.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.